

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE
AND PLANTS

Proposed Listing and Critical Habitat Determination for the Coachella Valley Fringe-toed Lizard

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes that the Coachella Valley fringe-toed lizard (*Uma inornata*), known only from the Coachella Valley, Calif., be listed as a threatened species. A review of the status of this lizard reveals that (1) it is restricted to sandy habitats in the Coachella Valley, Riverside County, Calif.; (2) its historical range was approximately 324 square miles; (3) by 1975 its range had been reduced to 236 square miles, 120 square miles of which was suitable habitat, including marginal areas; (4) habitat losses due to urban and agricultural growth in the Valley have occurred since 1975 and are expected to continue; (5) the lizard population has been impacted by off-road vehicle use in parts of the Valley; and (6) changes in the lizard's habitat are occurring through the planting of tamarisk wind-breaks and the invasion of Russian thistle. This rule would provide needed protection for the Coachella Valley fringe-toed lizard and its remaining habitat.

DATES: Comments from the public and the Governor of California must be received by December 28, 1978.

ADDRESSES: Submit comments to Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials received will be available for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 1100, 1612 K Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION
CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-4646.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On November 3, 1977, the Fish and Wildlife Service published a notice in the FEDERAL REGISTER (42 FR 57492) to the effect that a review of the status of 10 reptiles was being conducted.

The Coachella Valley fringe-toed lizard was included as part of the review. As a result of the notice of review, responses were received from the California Department of Fish and Game, the California State office of the Bureau of Land Management, and eight professional biologists. Several agencies and individuals included a report by A. S. England and S. G. Nelson entitled "Status of the Coachella Valley fringe-toed lizard (*Uma inornata*)" which had been prepared for the California Department of Fish and Game in 1976. The comments and supportive documents have been reviewed and a summary is presented below. This information has been considered and is incorporated into the administrative record of this proposal.

The following biologists all recommended protection for the lizard: P. A. Medica, K. S. Norris, T. R. Van Deventer, D. B. Wake, H. F. Delisle, D. W. Stevens, W. W. Mayhew, and A. S. England. Habitat protection from encroaching development, off-road vehicle use, and non-native plant species were frequently cited as of being paramount importance to the continued survival of this species. Many of the biologists supplied information on the modification of the habitat and indicated that it was representative of what is happening throughout the California desert. Dr. Mayhew supplied specific information concerning areas of potential critical habitat and Dr. England clarified certain statements in his 1976 report to the State. Threatened status was recommended by most of the biologists.

Mr. John Birch, acting State director of the Bureau of Land Management in California, supplied information on the threats to the lizard, habitat modification, and a California State land acquisition request on behalf of the lizard. He recommended a threatened status under provisions of the Endangered Species Act of 1973.

Mr. J. McCormick responded for the California Department of Fish and Game. He recommended no listing although he indicated that the State will continue to "monitor this species closely in an effort to prevent its status from declining further". He also states that "We agree with the author's conclusion that this species does not now qualify as threatened or endangered." However, the authors do not say that the species should not be federally protected. On page 27 of their report, England and Nelson do say that the Coachella Valley fringe-toed lizard does not qualify as endangered under that definition in the Endangered Species Act of 1973. However, they continue: "The Federal definition of a threatened species is broad enough to conceivably include *U. inornata*, given the existing threats that

we have described". In his letter dated January 25, 1978, Dr. England further states: "Based on these findings, it is clear that *Uma inornata* is likely to become an endangered species in the foreseeable future, and thus meets the threatened species criteria." Therefore, the Service believes that a proposal to list this species as threatened is justified under provisions of the Act.

The Coachella Valley fringe-toed lizard is known only from the Coachella Valley, Riverside County, Calif. Like other members of the genus *Uma*, it is adapted for living in fine wind-blown sand, and is restricted to areas where this habitat occurs in the floor of the Coachella Valley. At times, the Coachella Valley fringe-toed lizard has been considered a subspecies of the Colorado fringe-toed lizard (*Uma notata*). A recent study proposes reestablishing the single species *Uma notata* by lumping the Coachella Valley, Calif., and Mojave fringe-toed lizards, but it does not address the subject of subspecies. Based on current reproductive, physiological, and behavioral evidence, most experts agree on the existence of either three discrete species or three subspecies. The Coachella Valley fringe-toed lizard is of special interest to scientists because of its morphological and behavioral adaptations to sandy habitats, and its evolutionary relationships to other closely related species.

SUMMARY OF FACTORS AFFECTING THE
SPECIES

These findings are summarized herein under the five criteria of section 4(a) of the Act. These factors, and their application to the Coachella Valley fringe-toed lizard, are as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.*—The historical range of the Coachella Valley fringe-toed lizard was approximately 324 square miles. The results of a study funded by the California Department of Fish and Game indicated that by 1975 the historical range of this species had been reduced by 27 percent to 236 square miles. Further, suitable habitat, including marginal areas, comprised only 120 square miles or 51 percent of range remaining in 1975. The amount of habitat that has been lost since 1975 is not known. These losses have occurred as a result of rapid urban and agricultural growth in the Valley since 1945, and this trend is expected to continue. In 1940, the human population in the Coachella Valley was 12,000. By 1970, it had risen to over 100,000, and has been projected to reach 139,500 to 164,000 by 1990. Population projections made for the early 1970's have already proven to be too low. These predic-

tions were only for permanent populations, and in 1971, seasonal residents represented an additional 40 percent of the total population. At the present time, none of the lizard's habitat has been permanently preserved. An analysis of city and county general plans, and county zoning has shown that all remaining habitat could eventually be developed.

Much of the habitat in the southern and eastern part of the Valley is being invaded by dense stands of Russian thistle (*Salsola iberica*), a noxious weed introduced from Europe. This is a recent phenomenon and the potential effects on Coachella Valley fringe-toed lizard populations are not known. There is heavy off-road vehicle use in parts of the Valley. Studies in other areas show that this activity can have significant negative effects on densities and biomass of vertebrate populations. Tamarisk (*Tamarix aphylla*) wind-breaks have been planted throughout the Valley to protect agricultural and urban developments. A row of 40 foot trees can create a wind-shadow up to 1200 feet wide on the leeward side of the windbreak, causing changes in soil movement patterns. The potential effects of these plantings on fringe-toed lizard populations are not known. An additional 15 to 20 miles of wind-breaks have been proposed, partially along Bob Hope Drive, Ramon Road, and Indian Avenue, through relatively undisturbed habitat.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.*—Although existing regulations prohibit collecting more than two fringe-toed lizards per day without a special permit, collecting for the pet trade has continued. This is due primarily to a sharp increase in prices paid for reptiles. During the spring of 1978, several violations involving the Coachella Valley fringe-toed lizard were issued for over-collecting without a license. The extent of this problem is not known.

3. *Disease or predation.*—Not applicable.

4. *The inadequacy of existing regulatory mechanisms.*—To the present, nothing has been done to prevent the continued loss of Coachella Valley fringe-toed lizard habitat through conversion to urban and agricultural land uses. Although a county ordinance restricts the use of off-road vehicles on private lands without possession of written permission from the landowner, heavy use continues in certain areas and habitat conditions have deteriorated.

5. *Other natural or man-made factors affecting its continued existence.*—Not applicable.

CRITICAL HABITAT

Section 7 of the Act, entitled "Inter-agency Cooperation," states:

The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or results in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

A definition of the term "critical habitat" was published jointly by the Fish and Wildlife Service and the National Marine Fisheries Service in the *FEDERAL REGISTER* of January 4, 1978 (43 FR 870-876) and is reprinted below:

"Critical habitat" means any air, land, or water area (exclusive of those existing man-made structures or settlements which are not necessary to the survival and recovery of a listed species) and constituent elements thereof, the loss of which would appreciably decrease the likelihood of the survival and recovery of a listed species or a distinct segment of its population. The constituent elements of critical habitat include, but are not limited to: physical structures and topography, biota, climate, human activity, and the quality and chemical content of land, water, and air. Critical habitat may represent any portion of the present habitat of a listed species and may include additional areas for reasonable population expansion.

As specified in the regulations for Interagency Cooperation as published in the January 4, 1978 *FEDERAL REGISTER* (43 FR 870), the Director will consider the physiological, behavioral, ecological, and evolutionary requirements for survival and recovery of listed species in determining what areas or parts of habitat are critical. These requirements include, but are not limited to:

- (1) Space for individual and population growth and for normal behavior;
- (2) Food, water, air, light, minerals, or other nutritional or physiological requirements;
- (3) Cover or shelter;
- (4) Sites for breeding, reproduction, or rearing of offspring; and generally,
- (5) Habitats that are protected from disturbances or are representative of the geographical distribution of listed species.

With respect to the Coachella Valley fringe-toed lizard, the areas proposed as critical habitat satisfy all known criteria for the evolutionary, ecological, behavioral, and physiological requirements of the species. Nesting and

successful incubation of eggs occurs within the proposed areas. Shelter and hibernation sites are present in the dunes and adjacent sandy habitat. Organisms on the dunes provide food for the lizards and the sand provides sufficient cover from disturbance and overheating. Sufficient areas for normal growth of both the population and individual lizards are provided within the proposed critical habitat.

Critical habitat of the Coachella Valley fringe-toed lizard, exclusive of those existing man-made structures or settlements which are not necessary to the normal needs or survival of the species, is proposed as follows:

California. Riverside County: All aeolian sand deposits present on the following sections of land (San Bernardino base and meridian):

T3S R2E Secs. 13, 14, 23, 24.
T3S R3E Secs. 7, 8, 13, 14, 15, 16, 17, 18, 21, 22, 23, 24.
T3S R4E Secs. 1, 2, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35, 36.
T3S R5E Secs. 3, 4, 5, 6, 7, 8, 9, 10, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36.
T4S R5E Secs. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, 34, 36.
T4S R6E Secs. 6, 7, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, 36.
T4S R7E Secs. 29, 30, 31, 32, 33.
T5S R6E Secs. 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 23, 24, 25, 36.
T5S R7E Secs. 1, 5, 6, 7, 8, 9, 12, 16, 17, 18, 19, 20, 21, 29, 30, 31, 32, 33.
T5S R8E Secs. 4, 5, 6, 7, 8, 9, 16, 17, 18, 20, 21.

The areas proposed do not necessarily include the entire critical habitat of this lizard, and modifications to critical habitat descriptions may be proposed in the future. In accordance with section 7 of the Act, all Federal departments and agencies would be required to insure that actions authorized, funded, or carried out by them do not result in the destruction or adverse modification of the critical habitat of the Coachella Valley fringe-toed lizard.

All Federal departments and agencies shall, in accordance with section 7 of the Act, consult with the Secretary of the Interior with respect to any action which is considered likely to affect critical habitat. Consultation pursuant to section 7 should be carried out using the procedures contained in the January 4, 1978, *FEDERAL REGISTER* (43 FR 870-876).

EFFECT OF THE RULEMAKING

In addition to the effects discussed above, the effects of these determinations and this rulemaking include, but are not necessarily limited to, those discussed below.

Endangered species regulations already published in title 50 of the Code

of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all endangered and threatened species. The regulations referred to above, which pertain to threatened species, are found at § 17.31 of Title 50, and are summarized below.

With respect to the Coachella Valley fringe-toed lizard, all prohibitions of section 9(a)(1) of the Act, as implemented by 50 CFR 17.31, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies.

Regulations published in 50 CFR Part 17 provide for the issuance of permits to carry out otherwise prohibited activities involving endangered or threatened species under certain circumstances. Such permits are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified

period of time to relieve undue economic hardship which would be suffered if such relief were not available.

Pursuant to section 4(b) of the Act, the Director will notify the Governor of California with respect to this proposal and request his comments and recommendations before making final determinations.

PUBLIC COMMENTS SOLICITED

The Director intends that the rules finally adopted will be as accurate and effective as possible in the conservation of any endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological or other relevant data concerning any threat (or the lack thereof) to the Coachella Valley fringe-toed lizard;

(2) The location of and the reasons why any habitat of this species should or should not be determined to be critical habitat as provided for by section 7 of the Act;

(3) Additional information concerning the range and distribution of this species.

Final promulgation of the regulations on the Coachella Valley fringe-toed lizard will take into consideration the comments and any additional information received by the Director, and such communications may lead him to adopt final regulations that differ from this proposal.

An environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1612 K Street NW., Washington, D.C., and may be examined during regular business hours. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary author of this proposed rulemaking is Dr. C. Kenneth Dodd, Jr., Office of Endangered Species 202-343-7814.

REGULATIONS PROMULGATION

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. Amend § 17.11(i) by adding, in alphabetical order under "Reptiles" the following to the list of animals:

§ 17.11 Endangered and threatened wildlife.

Species		Range			Status	When listed	Special rules
Common name	Scientific name	Popula- tion	Known distribution	Portion endangered			
Reptiles:							
Lizard, Coachella Valley fringe-toed.	<i>Uma inornata</i>	NA	U.S.A. (California)	Entire	T	

§ 17.95 [Amended]

2. Also, the Service proposes to amend § 17.95(c) by adding critical habitat of the Coachella Valley fringe-toed lizard after that of the Mona ground iguana as follows:

(c) Reptiles. ***

COACHELLA VALLEY FRINGE-TOED LIZARD

(*Uma inornata*)

California. Riverside County. All aeolian sand deposits present on the following sections of land (San Bernardino base and meridian):

T3S R2E secs. 13, 14, 23, 24.

T3S R3E secs. 7, 8, 13, 14, 15, 16, 17, 18, 21, 22, 23, 24.

T3S R4E secs. 1, 2, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35, 36.

T3S R5E secs. 3, 4, 5, 6, 7, 8, 9, 10, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36.

T4S R5E secs. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, 34, 36.

T4S R6E secs. 6, 7, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, 36.

T4S R7E secs. 29, 30, 31, 32, 33.

T5S R6E secs. 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 23, 24, 25, 36.

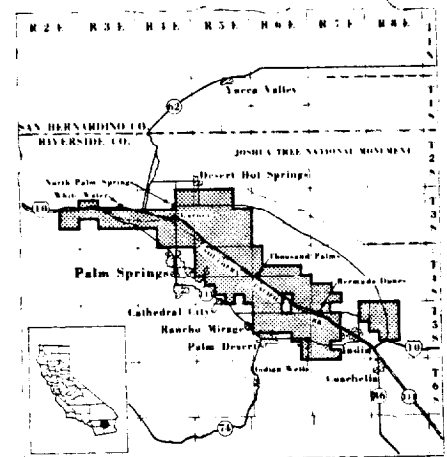
T5S R7E secs. 1, 5, 6, 7, 8, 9, 12, 16, 17, 18, 19, 20, 21, 29, 30, 31, 32, 33.

T5S R8E secs. 4, 5, 6, 7, 8, 9, 16, 17, 18, 20, 21.

NOTE.—The Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 23, 1978.

KEITH M. SCHREINER,
Acting Director,
Fish and Wildlife Service.



FR Doc. 78-27313 Filed 9-27-78; 8:45 am